

IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION

FILED

JAN 08 2007

CLERK, U.S. DISTRICT COURT
WESTERN DISTRICT OF TEXAS
BY
DEPUTY CLERK

JOHN DOE,

Plaintiff,

v.

AUSTIN INDEPENDENT SCHOOL
DISTRICT; JAMES BOWIE HIGH SCHOOL;
BRUCE DINKINS; and JAMES JOHNSON,

Defendants

CIVIL ACTION NO.

A07CA 017SS

(JURY DEMAND)

ORIGINAL COMPLAINT

TO THE HONORABLE U.S. DISTRICT COURT:

Comes now, John Doe (Jeremy Howell), Plaintiff, and files this Original Complaint against Austin Independent School District, James Bowie High School, Bruce Dinkins, and James Johnson, as follows:

I. PARTIES

1. Jeremy Howell is an individual who resides in Austin, Travis County, Texas.
2. Defendant Austin Independent School District ("Austin ISD") is an independent school district located in Austin, Texas. Austin ISD can be served at 1111 W. 6th Street, Austin, TX 78703.
3. Defendant James Bowie High School ("Bowie HS") is a school located in the Austin Independent School District. Bowie HS can be served by serving its principal, Stephen Kane, at 4103 Slaughter Ln., Austin, TX 78749.
4. Defendant Bruce Dinkins is an individual who resides in Texas. Dinkins can be served at 4103 Slaughter Ln., Austin, TX 78749.

5. Defendant James Johnson is an individual who resides in Texas. Johnson can be served at 4103 Slaughter Ln., Austin, TX 78749.

II. JURISDICTION AND VENUE

3. This is a civil action seeking damages from Defendants for sexual discrimination in violation of Title IX of the Education Amendments of 1972, 86 stat. 373, as amended, 20 U.S.C. §§ 1681-88 (1988).

4. This Court has jurisdiction under 20 U.S.C. §§ 1681-88 and 28 U.S.C. § 1331 (federal question).

5. This Court has personal jurisdiction over Austin ISD and Bowie HS because at all times relevant to this lawsuit, they were located in Texas. This Court has personal jurisdiction over Dinkins and Johnson because at all times relevant to this lawsuit they resided in Texas. Venue is proper in this District since the Title IX violations complained of herein occurred in this District.

III. FACTUAL BACKGROUND

Jeremy Howell attended Bowie HS in the Austin ISD. James Johnson was hired by the Austin ISD to work as a contract band instructor at Bowie HS. Johnson sexually abused Jeremy. The band director and Johnson's supervisor, Bruce Dinkins, was aware of the risk and took no action to stop it.

IV. COUNT I: TITLE IX VIOLATION

Title IX of the Education Amendments of 1972, 86 stat. 373, as amended, 20 U.S.C. § 1681, states:

- (a) No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any

education program or activity receiving Federal financial assistance[.]

Austin ISD and Bowie HS are education programs/activities that receive Federal financial assistance. Bruce Dinkins was the band director at Bowie HS, and James Johnson was a contractor teaching band at Bowie HS. In violation of the Title IX prohibition of discrimination based on sex, James Johnson sexually abused Jeremy at Bowie HS and other locations. Dinkins, the band director, had actual knowledge of the risk (because of direct and sexual inquiries by Johnson about Jeremy) posed by Johnson, a band teacher, to Jeremy, a student. Dinkins had the authority to prevent the abuse and failed to do so. He further failed to advise Jeremy or his parents of the risk and danger. Violation of Title IX by Austin ISD, Bowie HS, Bruce Dinkins, and James Johnson was the direct and proximate cause of damages to Jeremy Howell.

V. DAMAGES

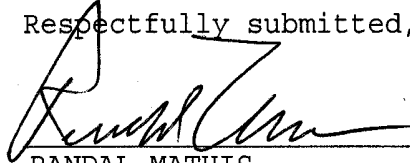
Because of Defendants' violations of Title IX, Plaintiff Jeremy Howell has incurred reasonable and necessary medical expenses in the past, and will continue to incur such in the future, and has suffered extreme mental anguish in the past that will continue in the future.

VI. JURY DEMAND

Plaintiff requests that a jury be convened to try the factual issues in this cause.

WHEREFORE, plaintiff Jeremy Howell demands judgment against defendants Austin Independent School District, James Bowie High School, Bruce Dinkins, and James Johnson for damages and for any other just relief.

Respectfully submitted,



RANDAL MATHIS

State Bar No. 13194300

MATHIS & DONHEISER, P.C.

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Facsimile: (214) 303-0399

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ATTORNEYS FOR JEREMY HOWELL

RECEIVED

JS 44 (Rev. 11/04)

JAN 08 2007

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I. (a) PLAINTIFFS ~~DEPUTY CLERK~~

John Doe

(b) County of Residence of First Listed Plaintiff Travis
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorney's (Firm Name, Address, and Telephone Number)

Randal Mathis, Mathis & Donheiser, PC, 4600 Trammell Crow Center, 2001 Ross Ave, Dallas, TX 75201, 214-303-1919

DEFENDANTS

Austin Independent School District, James Bowie High School, Bruce Dinkins, and James Johnson

County of Residence of First Listed Defendant Travis
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED.

Attorneys (If Known)

A07CA 017SS

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff ☒ 3 Federal Question (U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | | | | | |
|---|--------------------------------|--------------------------------|---|--------------------------------|--------------------------------|
| Citizen of This State | PTF <input type="checkbox"/> 1 | DEF <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | PTF <input type="checkbox"/> 4 | DEF <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury	<input type="checkbox"/> 362 Personal Injury - Med. Malpractice <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input checked="" type="checkbox"/> 440 Other Civil Rights	<input type="checkbox"/> 510 Motions to Vacate Sentence Habeas Corpus: <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition	LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	<input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) SOCIAL SECURITY <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609
				<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes

V. ORIGIN

(Place an "X" in One Box Only)

- ☒ 1 Original Proceeding ☐ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from another district (specify) ☐ 6 Multidistrict Litigation ☐ 7 Appeal to District Judge from Magistrate Judgment

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

20 U.S.C. 1681

Brief description of cause:
Title IX Violation

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: ☒ Yes ☐ No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE

DOCKET NUMBER

DATE

SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

APPLYING IFP

JUDGE

MAG. JUDGE

RECEIPT FOR PAYMENT
UNITED STATES DISTRICT COURT
for the
WESTERN DISTRICT OF TEXAS

RECEIVED FROM

at Austin
Mathis + Donheiser P.C.
4600 Trammell / Crow Center
2001 Ross Ave.
Dallas, TX 75201

Fund	ACCOUNT	AMOUNT
6855XX	080900	600 00
604700	510000	190 00
	086400	100 00
	TOTAL	350.00
	Case Number or Other Reference	1:07CV017

Deposit Funds
Registry Funds
General and Special Funds
Immigration Fees
Attorney Admission Fees
Filing Fees
Sale of Publications
Copy Fees
Miscellaneous Fees
Interest
Recoveries of Court Costs
Restitution to U.S. Government
Conscience Fund
Gifts
Crime Victims Fund
Unclaimed Monies
Civil Filing Fee (1/2)
Registry Fee

New Case

John Doe

v. Austin Independent School District et al.

\$ Checks and drafts are accepted subject to collection and full credit will only be given when the check or draft has been accepted by the financial institution on which it was drawn. #7209

DATE	Cash	Check	M.O.	Credit
1-8-07		✓		

DEPUTY CLERK:

R.C. Kelly